IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

Crl.MC.No. 475 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.443/2007 Dated 30/01/2007
CRIME NO. 227/05 OF MARARIKULAM POLICE STATION

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PETITIONER: ACCUSED

SHIBI, AGED 28 YEARS, S/O.GOPINATHAN,
THUNDIYIL VEEDU, ENGANDIYOOR VILLAGE,
CHAVAKKAD, THRISSUR.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

RESPONDENTS: STATE

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT
ERNAKULAM.

BY ADDL. D.G.P. SRI.V.K. MOHANAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 475 OF 2007

Dated this the 6th day of March, 2007

ORDER

The petitioner is the 4th accused in a prosecution, inter alia, under Secs.307 and 302 read with Secs.120B and 34 of the IPC. The petitioner has been released on bail after a long period of detention pending investigation. He was released on bail subject to conditions which include the condition that he must report before the Investigating Officer between 9 a.m. and 11 a.m. on all Wednesdays.

2. The learned counsel for the petitioner submits that insistence on such a condition on the petitioner when the investigation is already complete and the final report has already been filed and the case has been committed to the court of sessions is absolutely unjustified. The learned counsel for the petitioner points out that in so far as accused 1 and 2 who have already been released from custody, no such condition for appearance is insisted. In these circumstances, the learned counsel for the petitioner prays that the said

condition may now be deleted.

3. This application is opposed by the learned Public Prosecutor. He submits that though the learned Judge who passed the order has not given detailed reasons as to why such a condition is being imposed, it may be noted that the prosecution had always opposed the bail application vehemently, inter alia, on the plea that the accused are likely to tamper with the evidence for the prosecution. The witnesses are likely be intimidated. In these circumstances, it is very important and essential that the movements of the accused herein must be monitored to ensure that the course of justice is not interrupted. The learned Public Prosecutor further submits that it may not be proper to mechanically equate the petitioner/the 4th accused along with accused 1 and 2 in respect of whom the learned Judge while granting bail had not imposed such a condition. The petitioner is alleged to be a co-conspirator along with accused Nos.6, 7 and 3. In these circumstances, the mere fact that such conditions have not been imposed on accused 1 and 2 may not weigh with the court to delete the condition now, it is submitted. I am satisfied that the impugned condition cannot be held to be

unnecessary or oppressive. The learned Judge who passed the order appears to have realistically taken note of the nature of the allegation against the petitioner in the case as also the grave and serious allegations raised against the petitioner. In any view of the matter, I am not satisfied that the said condition imposed as late as on 1/12/06 deserves to be modified or deleted at this stage.

4. This Crl.M.C. is, in these circumstances, dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge